

MEMORANDUM OF UNDERSTANDING

Utah Department of Transportation and Federal Highway Administration

Contract and Modification Requests Consultant Selection Caps

Updated/Finalized May 10, 2005

The Utah Department of Transportation (UDOT) and Federal Highway Administration (FHWA) are by this Memorandum agreeing to the following process for handling any new proposed contracts, and modifications to contracts, for engineering services through the General Engineering Services and Local Government Pool of Consultants (Pool), Streamlined Requests for Qualifications, Standard Request for Qualifications, and Local Government Engineers of Record. This Memorandum of Agreement will reflect all future Caps as determined for each Pool Request for Qualifications.

Definition of Caps

There are three caps to consider when selecting a consultant for a project. These caps will be defined here and referred to throughout this Memorandum.

1) Pool Contract-Cap

When selecting a consultant through the Pool, there is a cap for any contract, including any modifications, for both State/Federal and Local Government projects.

For Pool period **July 1, 2005 through June 30, 2007**: The contract-cap is **\$400,000**.

2) Pool Consultant-Cap

Each consultant that is selected as qualified for engineering services work and is placed on the list of pool consultants has a cumulative cap to the amount of work they may be selected for during the two-year period of the Pool.

For Pool period **July 1, 2005 through June 30, 2007**: The consultant-caps are **\$1,000,000** for State/Federal Pool projects and **\$750,000** for Local Government Pool projects.

3) Streamlined Request for Qualifications Cap (Streamlined RFQ-Cap)

The Streamlined RFQ-Cap is tied to the two-year period of the Pool for the approval of the dollar cap. The range when a consultant is selected through the Streamlined RFQ process is from \$0 to the Streamlined RFQ-Cap. The cap is for the contract and any potential modifications to the contract.

For Pool period **July 1, 2005 through June 30, 2007**: The Streamlined RFQ-cap is **\$750,000**.

Standard Request for Qualifications

A consultant selected through a Standard Request for Qualifications process does not have a dollar cap, the range is **\$0 to unlimited** within the fully disclosed Scope of RFQ. Standard Requests for Qualifications require an "Approach to the Project" as one of the selection criteria.

Note: FHWA and UDOT have recently determined that all EA's and EIS's will be required to go through the Standard Request for Qualifications process; and that there will be a separate Streamlined or Standard RFQ or Pool (if applicable) Consultant Selection Method for design work. This means two separate contracts will be prepared by Consultant Services (environmental and design). At this time, FHWA and UDOT will allow the same consultant, if qualified, to perform both the environmental and design work, if the appropriate consultant selection process was performed.

Engineer of Record for Local Government

A consultant selected through an Engineer of Record process does not have a dollar cap; the range is **\$0 to unlimited** within the fully disclosed Scope of RFQ. There are five work disciplines that a Local Government Agency may designate an EOR for Federally-Aided Projects: Bridge Design, Environmental, Utility, Preconstruction, and Construction Management. Local Government Engineer of Record Request for Qualifications shall be reviewed to confirm expertise for that type of work - refer to Chapter 6 of Consultant Services Manual of Instructions. The Local Government Agency has the right to restrict Scope, Schedule, and Budget of each project RFQ.

Local Governments are required on federally funded projects to comply with the UDOT consultant selection process. UDOT encourages Local Governments to advertise their federally funded projects through Consultant Services. Utilizing Consultant Services will prevent the project from losing funding because the UDOT selection process was not followed. Consultant Services has prepared Engineer of Record Guidelines that may be found in UDOT's Document Management System (DM #20127), Project Manager Toolbox, and on the UDOT Website. The guidelines include EOR Compliance Form, EOR Selection & Approval Process, and EOR Minimum Selection Criteria (which may change as the Department develops the Local Government Program).

Local Government Request for Qualifications

Note: In order to qualify for Federal-aid funds for a Local-Administered Project-Specific Request for Qualifications (Standard or Streamlined), the local agency must comply with the advertisement and selection process as noted in the Consultant Services Manual of Instructions. This process must be documented and approved by the Consultant Services Manager or designated Local Government Contract Administrator. This requirement is part of the FHWA/UDOT Oversight Agreement and can also be found in 23CFR172.

Standard Request For Qualifications - A consultant selected through a Local Government Standard Request for Qualifications process does not have a dollar cap; the range is **\$0 to unlimited** within the fully disclosed Scope of RFQ.

Streamlined Request For Qualifications - A consultant selected through a Local Government Streamlined Request for Qualifications process will have a dollar cap; the range is **\$0 to \$750,000** within the fully disclosed Scope of RFQ. Local Government Project Request for Qualifications shall be reviewed to confirm expertise for that type of

work - refer to Chapter 6 of Consultant Services Manual of Instructions. The Local Government Agency has the right to restrict Scope, Schedule, and Budget of each project RFQ. Local Governments are required on federally funded projects to comply with the UDOT consultant selection process. UDOT encourages Local Governments to advertise their federally funded projects through Consultant Services. Utilizing Consultant Services will prevent the project from losing funding because the UDOT selection process was not followed.

Environmental Projects

If the project is for the preparation of an Environmental Assessment or an Environmental Impact Statement, it is required for UDOT and Local Government Project Managers to proceed with a Standard RFQ rather than selecting a consultant from the Pool or utilizing a Streamlined RFQ. The reason for this is the nature of environmental projects. Environmental projects must have the latitude to develop or expand based on information discovered during the environmental process and should not be limited by arbitrary constraints, at no time should the environmental contract and/or modifications allow the project to be fully designed unless stated otherwise in the RFQ. Another reason it is required to proceed with a Standard RFQ is it is important to evaluate consultants' proposed approach to the project during the selection process.

Note: According to the FHWA/UDOT Oversight Agreement all environmental work should not exceed the 30% design rule without written approval from FHWA. UDOT's interpretation of the 30% design rule is that ALL "D" tasks from the UDOT Design Process Manual may be performed during the environmental phase but NO "P" tasks may be started until there is an approved environmental decision document.

Background and Goal for the Future

The most competitive consultant selection processes are the Standard RFQ and the Streamlined RFQ. The goal for the future of consultant selection through the Pool is to encourage the UDOT and Local Governments to use a more competitive process in selecting consultants. The Streamlined RFQ was developed as a simple (no approach) version of the Standard RFQ that could fill the need for a quick simple selection of a consultant that would still be more competitive than a Pool selection – refer to Chapter 4 Change #1 of Consultant Services Manual of Instructions.

The goal of the future is to also encourage UDOT and Local Government Project Managers to use a variety of qualified consultants from the Pool, when unable to use the Standard or Streamlined selection method.

Note: There is not an Exceptions Process for this new Pool Period (July 1, 2005 to June 30, 2007) for contracts that would exceed the \$400k cap or for Consultants who would exceed their cumulative limits (see page 1).

Approval of Memorandum of Understanding

Utah Department of Transportation

Stan Burns
Director of Engineering Services

Date

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Frank F. Long
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UDOT Project Managers/Region Directors/Technicians
Consultant Services Website – Pool Contracting